



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52 and 81**

**[EPA-R04-OAR-2018-0182; FRL-9979-63-Region 4]**

**Air Plan Approval and Air Quality Designation; Florida: Redesignation of the Hillsborough County Lead Area to Attainment**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** On March 26, 2018, the State of Florida, through the Florida Department of Environmental Protection (Department), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Hillsborough County lead nonattainment area (hereinafter referred to as the “Hillsborough Area” or “Area”) to attainment for the 2008 lead National Ambient Air Quality Standards (NAAQS) and an accompanying State Implementation Plan (SIP) revision containing a maintenance plan for the Area. The Hillsborough Area is comprised of a portion of Hillsborough County in Florida, within a 1.5 kilometer (km) radius of the EnviroFocus Technologies, LLC facility (EnviroFocus). EPA is proposing to determine that the Hillsborough Area is attaining the 2008 lead NAAQS; to approve the SIP revision containing the State’s maintenance plan for maintaining attainment of the 2008 lead standard and to incorporate the maintenance plan into the SIP; and to redesignate the Hillsborough Area to attainment for the 2008 lead NAAQS.

**DATES:** Comments must be received on or before [insert date 30 days after date of publication]

in the Federal Register].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2018-0182 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Febres can be reached by phone at (404) 562-8966 or via electronic mail at [febres-martinez.andres@epa.gov](mailto:febres-martinez.andres@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. What Actions is EPA Proposing?**

EPA is proposing to take the following three separate but related actions: (1) to determine that the Hillsborough Area attained the 2008 lead NAAQS based on quality-assured, complete,

and certified ambient monitoring data for the 2014-2016 period and that the Area continues to attain the standard based on quality-assured, complete, and certified ambient monitoring data for the 2014-2017 period; (2) to approve Florida's maintenance plan for maintaining the 2008 lead NAAQS in the Area and incorporate it into the SIP; and (3) to redesignate the Hillsborough Area to attainment. The Hillsborough Area is comprised of a portion of Hillsborough County, Florida, bounded by a 1.5 km radius centered at Universal Transverse Mercator (UTM) coordinates 364104 meters East, 3093830 meters North, Zone 17, which surrounds EnviroFocus.

EPA is making the preliminary determination that the Hillsborough Area is attaining the 2008 lead NAAQS based on recent air quality data, and proposing to approve Florida's SIP revision containing the maintenance plan for the Hillsborough Area, in accordance to the requirements of section 175A. The maintenance plan submitted with Florida's request for redesignation is intended to help keep the Hillsborough Area in attainment of the 2008 lead NAAQS through the year 2029.

Finally, EPA is proposing to determine that the Hillsborough Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, EPA is proposing to approve a request to change the legal designation of the portion of Hillsborough County that is designated nonattainment to attainment for the 2008 lead NAAQS.

## **II. Background**

On November 12, 2008 (73 FR 66964), EPA promulgated a revised primary and secondary lead NAAQS of 0.15 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ). Under EPA's regulations at 40 CFR part 50, the 2008 lead NAAQS are met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with Appendix R of 40 CFR part

50, is less than or equal to  $0.15 \mu\text{g}/\text{m}^3$ . *See* 40 CFR 50.16. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement.

EPA designated the Hillsborough Area as a nonattainment area for the 2008 lead NAAQS on November 22, 2010 (75 FR 71033), effective December 31, 2010, using 2007-2009 ambient air quality data. This established an attainment date of five years after the December 31, 2010, effective date for the 2008 lead nonattainment designations pursuant to CAA section 172(a)(2)(A). Therefore, the Hillsborough Area's attainment date was December 31, 2015.

EPA's 2008 lead nonattainment designation for the Area triggered an obligation for Florida to develop a nonattainment SIP revision addressing certain CAA requirements under title I, part D, subpart 1 (hereinafter "Subpart 1") and to submit that SIP revision in accordance with the deadlines in title I, part D, subpart 5 (hereinafter "Subpart 5"). Subpart 1 contains the general requirements for nonattainment areas for criteria pollutants, including requirements to develop a SIP that provides for the implementation of reasonably available control measures (RACM), requires reasonable further progress (RFP), includes base-year and attainment-year emissions inventories, and provides for the implementation of contingency measures.

On April 16, 2015 (80 FR 20441), EPA published a final rule that approved a SIP revision, comprised of an attainment plan, based on Florida's attainment demonstration for the Hillsborough Area that included the base year emissions inventory requirements, a modeling demonstration of attainment for the 2008 lead NAAQS, RACM requirements that include reasonably available control technology (RACT), an RFP plan, and contingency measures for the Hillsborough Area.

### **III. Criteria for Redesignation**

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation providing that: (1) the Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the state containing such area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. “Procedures for Processing Requests to Redesignate Areas to Attainment,” Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereinafter referred to as the “Calcagni Memorandum”);
2. “State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,” Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; and

3. “Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,” Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994.

#### **IV. Why is EPA Proposing these Actions?**

On March 26, 2018, Florida requested that EPA redesignate the Hillsborough Area to attainment for the 2008 lead NAAQS and submitted an associated SIP revision containing a maintenance plan. EPA’s evaluation indicates that the Hillsborough Area is attaining the 2008 lead NAAQS and that it meets the requirements for redesignation as set forth in section 107(d)(3)(E), including the maintenance plan requirements under section 175A of the CAA. As a result, EPA is proposing to take the three related actions summarized in section I of this document.

#### **V. EPA’s Analysis of the State’s Redesignation Request and SIP Revision**

As stated above, in accordance with the CAA, EPA proposes to: (1) determine that the Hillsborough Area is attaining the 2008 lead NAAQS; (2) approve the 2008 lead NAAQS maintenance plan for the Area and incorporate it into the Florida SIP; and (3) redesignate the Area to attainment for the 2008 lead NAAQS.

The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Hillsborough Area in the following paragraphs.

##### ***Criteria (1) - The Administrator determines that the area has attained the NAAQS.***

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS. *See* CAA section 107(d)(3)(E)(i). For lead, an area may be considered to be attaining the 2008 lead NAAQS if it meets the 2008

lead NAAQS, as determined in accordance with 40 CFR 50.16 and Appendix R of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the NAAQS, the maximum arithmetic 3-month mean concentration for a 3-year period lead concentration measured at each monitor within an area must not exceed  $0.15 \mu\text{g}/\text{m}^3$ . The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). The monitors should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

Monitoring data for the Hillsborough Area shows that the 2008 lead NAAQS was attained. As demonstrated in Table 1, below, the 2014-2016 and 2015-2017 design values for the Area are all at or below the 2008 lead standard of  $0.15 \mu\text{g}/\text{m}^3$ . As a reference, the highest design values during the period 2009-2017 are also shown in Table 1 and the percent reductions that have been achieved from these values.

**Table 1. Monitored Design Values ( $\mu\text{g}/\text{m}^3$ ) and reduction (%) for the Hillsborough Area**

<b>Monitoring Station (AQS Site ID)</b>	<b>Attainment Date</b>	<b>Highest Design Value 2009-2017</b>	<b>2014-2016 Design Value<sup>1</sup></b>	<b>2015-2017 Design Value<sup>2</sup></b>	<b>Percent Reduction in Design Value</b>
Gulf Coast Lead (12-057-1066)	January 2017	0.98	0.13	0.13	87 %
Patent Scaffolding (12-057-1073)	January 2016	0.42	0.15	0.15	64 %
Kenly (12-057-0100)	n/a	0.04	0.01	0.01	75 %

Although 2014-2016 data was the most recent quality-assured, complete, and certified data at the time of Florida's redesignation request, 2015-2017 quality-assured, complete, and

<sup>1</sup> Air quality design values for all criteria air pollutants are available at: <https://www.epa.gov/air-trends/air-quality-design-values>.

<sup>2</sup> 2017 data is available at <https://www.epa.gov/outdoor-air-quality-data/monitor-values-report>.

certified data is now available. As presented in Table 1 above, the 2015-2017 data shows that the Area continues to attain the standard. Preliminary 2018 data also indicates that the Area continues to attain the standard.<sup>3</sup> In this proposed action, EPA is proposing to determine that the Hillsborough Area attained the 2008 lead NAAQS based on quality-assured, complete, and certified ambient monitoring data for the 2014-2016 period and that the Area continues to attain the standard based on quality-assured, complete, and certified ambient monitoring data for the 2015-2017 period. However, if the Area does not continue to attain the standard before EPA finalizes the redesignation, EPA will not go forward with the redesignation. As discussed in more detail below, Florida has committed to continue monitoring ambient air lead concentrations in this Area in accordance with 40 CFR part 58, as well as to consult with EPA Region 4 regarding any future changes to the monitoring network.

***Criteria (2) – The Administrator fully approves the applicable implementation plan for the area under section 110(k); and Criteria (5) – The State containing such area has met all requirements applicable to the area under section 110 and part D of title I of the CAA.***

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has a fully approved SIP under section 110(k) for the area (See CAA section 107(d)(3)(E)(ii)), and that the state has met all applicable requirements under section 110 and part D of title I of the CAA (See CAA section 107(d)(3)(E)(v)). EPA proposes to find that Florida has met all applicable SIP requirements for the Hillsborough Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that Florida has met all applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v) and that the SIP is fully

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<sup>3</sup> Preliminary 2018 data is available at <https://www.epa.gov/outdoor-air-quality-data/monitor-values-report>.



approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these proposed determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were applicable prior to submittal of the complete redesignation request.

A. *The Hillsborough Area has met all applicable requirements under section 110 and part D of the CAA.*

1. *General SIP requirements.*

General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a stationary source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (New Source Review (NSR) permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that

the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (i.e., for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001). Nonetheless, EPA has approved Florida's SIP revision related to the section 110 requirements for the 2008 lead NAAQS. *See* 80 FR 14019 (March 18, 2015); and 80 FR 57538 (September 24, 2015).

2. *Title I, Part D, applicable SIP requirements.*

Subpart 1 of part D, comprised of sections 171-179B of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. All areas that were designated nonattainment for the 2008 lead NAAQS were designated under Subpart 1 of the CAA in accordance with the deadlines in Subpart 5. For purposes of evaluating this redesignation request, the applicable Subpart 1 SIP requirements for all nonattainment areas are contained in sections 172(c)(1)-(9) and in section 176. A thorough discussion of the requirements contained in sections 172 and 176 can be found in the General Preamble for Implementation of title I. *See* 57 FR 13498 (April 16, 1992).

*a. Subpart 1 Section 172*

Section 172 requires states with nonattainment areas to submit attainment plans providing for timely attainment and meeting a variety of other requirements. EPA's longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not "applicable" for purposes of CAA section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before EPA can redesignate the area. In the 1992 General Preamble for Implementation of Title I, EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. *See* 57 FR 13498, 13564 (April 16, 1992). EPA noted that the requirements for RFP and other measures designed to provide for attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements "have no meaning" for an area that has already attained the standard. *Id.* This interpretation was also set forth in the Calcagni Memorandum. EPA's understanding of section 172 also forms the basis of its Clean Data Policy, which suspends a state's obligation to submit most of the attainment

planning requirements that would otherwise apply, including an attainment demonstration and planning SIPs to provide for RFP, RACM, and contingency measures under section 172(c)(9).

As discussed above, EPA previously approved Florida's attainment plan for the Area. *See* 80 FR 20441 (April 16, 2015). Among other things, the attainment plan for the Area satisfied the section 172(c)(1) requirements for RACM; 172(c)(2) requirements related to RFP; 172(c)(3) requirements for an emissions inventory; 172(c)(6) requirements for permanent and enforceable control measures necessary to provide attainment of the NAAQS by the attainment date; and section 172(c)(9) requirements for contingency measures.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources to be allowed in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. Florida currently has a fully-approved part D NSR program in place. However, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment." Florida has demonstrated that the Area will be able to maintain the NAAQS without part D NSR in effect, and therefore Florida need not have fully approved part D NSR programs prior to approval of the redesignation request. Florida's PSD program will become effective in the Area upon redesignation to attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, EPA believes that the Florida's SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

Finally, Section 172(c)(8) allows a state to use equivalent modeling, emission inventory, and planning procedures if such use is requested by the state and approved by EPA. Florida has not requested the use of equivalent techniques under section 172(c)(8).

*b. Subpart 1 Section 176 - Conformity Requirements*

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability that EPA promulgated pursuant to its authority under the CAA. In light of the elimination of lead additives in gasoline, transportation conformity does not apply to the lead NAAQS. *See* 73 FR 66964 (November 12, 2008).

*B. The Hillsborough Area has a fully approved applicable SIP under section 110(k) of the CAA.*

EPA has fully approved the applicable Florida SIP for the Hillsborough Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (*see* Calcagni

Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989-90 (6th Cir. 1998); *Wall*, 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action. *See* 68 FR 25426 (May 12, 2003) and citations therein. Following passage of the CAA of 1970, Florida has adopted and submitted, and EPA has fully approved at various times, provisions addressing various SIP elements applicable for the 2008 lead NAAQS in the Hillsborough Area. *See* 80 FR 14019 (March 18, 2015); 80 FR 57538 (September 24, 2015); and 80 FR 20441 (April 16, 2015).

As indicated above, EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions nor linked to an area's nonattainment status are not applicable requirements for purposes of redesignation.

***Criteria (3) – The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollution control regulations and other permanent and enforceable reductions.***

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable Federal air pollution control regulations, and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). EPA has preliminarily determined that Florida has demonstrated that the observed air quality improvement in the Hillsborough Area is due to permanent and enforceable reductions in emissions.

When EPA designated the Hillsborough Area as a nonattainment for the lead NAAQS, EPA determined that operations at EnviroFocus were the primary cause of the 2008 lead NAAQS violation in the Area.<sup>4</sup> In 2012, the State submitted an attainment plan that contained a construction permit<sup>5</sup> with lead controls needed to attain the NAAQS to satisfy the section 172(c)(1) RACM requirement. These controls were part of a modernization project for the facility and included: baghouses capable of achieving over 99 percent efficiency for exhaust control of all smelting and refining operations; local exhaust vents (LEVs) for fugitive emissions from the process; wet suppression (via a sprinkler system), vacuum sweeping, and wheel washing of vehicles exiting the building; and a complete enclosure of the facility with negative-pressure. EPA approved these controls as RACM/RACT and incorporated them into the SIP, making them permanent and enforceable SIP measures to meet the requirements of the CAA and 2008 Lead NAAQS. *See* 80 FR 20441 (April 16, 2015). In addition, the Facility is subject to the revised secondary lead smelting National Emissions Standards for Hazardous Air Pollutants (NESHAP).<sup>6</sup> Florida has incorporated the requirements to install and operate controls related to RACM/RACT and the lead NESHAP into the Facility's March 6, 2017 Title V permit.<sup>7</sup> EPA considers the emissions reductions from the lead controls at EnviroFocus to be permanent and enforceable.

***Criteria (4) - The Administrator fully approves a maintenance plan for the area as meeting the requirements of section 175A of the CAA.***

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<sup>4</sup> *See Region 4 - Final Florida Technical Support Document For 1st Round of Lead Designations*, available at <http://www.regulations.gov>, document ID EPA-HQ-OAR-2009-0443-0330.

<sup>5</sup> Construction permit No. 0570057-027-AC (issued by the Department on December 14, 2012), available at <http://www.regulations.gov>, document ID EPA-R04-OAR-2014-0220-0002.

<sup>6</sup> *See* 78 FR 54835 (September 9, 2013). The secondary lead NESHAP, codified at 40 CFR part 63, subpart X, sets emissions standards for facilities that recycle lead-bearing scrap material, typically lead acid batteries, into elemental lead or lead alloys. EPA promulgated the standard in 1997 and revised it in 2012 (with amendments in 2014).

<sup>7</sup> Title V permit No. 0570057-033-AV.

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. *See* CAA section 107(d)(3)(E)(iv). In conjunction with its request to redesignate the Hillsborough Area to attainment for the 2008 lead NAAQS, Florida submitted a SIP revision to provide for maintenance of the 2008 lead NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA believes that this maintenance plan meets the requirements for approval under section 175A of the CAA.

*a. What is required in a maintenance plan?*

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures as EPA deems necessary to assure prompt correction of any future 2008 lead violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: the attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed more fully below, EPA has preliminarily determined that Florida's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Florida SIP.



*b. Attainment Emissions Inventory*

As mentioned above, EPA is proposing to determine that the Hillsborough Area is attaining the 2008 lead NAAQS based on monitoring data for the 3-year period from 2014-2016 and continuing to attain based on 2015-2017 data. In its attainment emissions inventory, Florida selected 2014 as the attainment year. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 2008 lead NAAQS. To demonstrate maintenance through 2029, Florida included projected lead emissions for the Area for the years 2020, 2023, 2026, and 2029. In its maintenance plan, Florida also included 2009 base year emissions from its attainment plan in order to show emissions reductions for the Hillsborough Area.

A description of how Florida developed the emissions inventory is located in section 1 of the maintenance plan. EnviroFocus is the only point source of lead emissions within the Area, and since the removal of lead from gasoline in the 1990s, there are no on-road mobile source contributions. For the 2009 base year and the 2014 attainment year emissions inventories, Florida used actual emissions from the facility's annual operating report (AOR). For the projected 2020, 2023, 2026, and 2029 inventories, Florida assumed that emissions would remain equal to the 2014 emission levels, because the State does not anticipate any new development in the Area that would increase lead emissions. Furthermore, the control measures that resulted in the improvement in lead air quality are permanent and enforceable and will remain in effect after redesignation. Table 2, below, identifies base year emissions, and attainment year emissions, as well as projected emissions for 2020, 2023, 2026, and 2029.

*c. Maintenance Demonstration*

The maintenance plan associated with the redesignation request includes a maintenance demonstration that:

- (i) Shows compliance with and maintenance of the 2008 lead NAAQS by providing information to support the demonstration that current and future emissions of lead remain at or below 2014 emissions levels.
- (ii) Uses 2014 as the attainment year and includes future emissions inventory projections for 2020, 2023, 2026 and 2029.
- (iii) Identifies an “out year” at least 10 years after the time necessary for EPA to review and approve the maintenance plan.
- (iv) Provides actual (2009 and 2014) and projected emissions inventories, in tons per year (tpy), for the Hillsborough Area, as shown in Table 2, below.

**Table 2 – Actual and Projected Annual Lead Emissions (tpy) for the Hillsborough Area**

<b>2009 Base Year</b>	<b>2014 Attainment year</b>	<b>2020 Interim year</b>	<b>2023 Interim year</b>	<b>2026 Interim year</b>	<b>2029 Maintenance year</b>
0.588	0.447	0.447	0.447	0.447	0.447

In situations where local emissions are the primary contributor to nonattainment, such as the Hillsborough Area, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the related ambient air quality standards should not be exceeded in the future. Florida has projected emissions as described previously and these projections indicate that emissions in the Hillsborough Area will remain at the same levels as those in the attainment year inventory for the duration of the maintenance plan.

EPA believes that the Area will continue to maintain the standard at least through the year 2029 because the only point source of lead emissions in the Area has instituted permanent and enforceable controls, which are reflected in the 2014 and later emissions inventories, and the 2014-2016 and 2015-2017 design values for the Area meet the NAAQS.

*d. Monitoring Network*

Currently, Florida operates (through the Hillsborough County Environmental Protection Commission or EPC) three ambient air monitors measuring lead concentrations in the Hillsborough Area that meet the requirements of 40 CFR part 58. Florida has committed to maintain an appropriate and well-sited monitoring network in the Hillsborough Area throughout the maintenance plan period in order to verify the continued maintenance of the 2008 lead NAAQS and has thus addressed the requirement for monitoring. Additionally, Florida has committed to consult with EPA prior to making any changes to the existing monitoring network plan; continue to quality assure the data in accordance with 40 CFR part 58, Subpart B; and enter all data into EPA's AQS in a timely manner. EPA approved Florida's monitoring plan related to the Hillsborough Area on October 19, 2017.

*e. Verification of Continued Attainment*

Florida has the legal authority to enforce and implement the maintenance plan for the Area. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future lead attainment problems.

Currently, all measures necessary to attain and maintain the 2008 lead NAAQS are included in the SIP-approved Hillsborough Area attainment plan and have been implemented by

EnviroFocus. According to the State, EnviroFocus will continue to make improvements to the facility to further reduce lead emissions that were not required by the Area's attainment plan. Florida will continue to verify attainment of the 2008 lead NAAQS in the Area through its established monitoring network plan, as discussed above. Additionally, EnviroFocus is required to submit emissions data to the State through its annual operating reports, which will be used to verify the facility's compliance with permitted emission limits, and assess emission trends in the Area.

*f. Contingency Measures in the Maintenance Plan*

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

In the March 26, 2018, SIP revision, Florida commits to maintaining the existing control measures at EnviroFocus after redesignation. As discussed above, EnviroFocus is the primary contributor to lead in the nonattainment area, the Facility is subject to the secondary lead NESHAP, and EPA has incorporated the lead control measures for the Facility into the SIP as RACM/RACT. *See* 80 FR 20441 (April 16, 2015).

The contingency plan included in the maintenance plan contains several triggers to determine when contingency measures are needed and what kind of measures should be used. In the event that any one-month period averages greater than  $0.15 \mu\text{g}/\text{m}^3$  at any monitor in the Area, EnviroFocus, once notified by the Department or Environmental Protection Commission of Hillsborough County (EPC), must immediately initiate an enhanced Operation & Maintenance (O&M) Plan for lead control. This enhanced O&M Plan must include the following:

- Immediately begin a daily 12-minute reading of visible emissions on each lead outlet following EPA's Method #9;
- Within 14 days, complete a dye leak check on every filtration device which controls a lead source and cease operations of any device that fails the test until the leak is fixed and the device passes a second leak test;
- Immediately increase the sprinkler system frequency. The frequency should be adjusted to 5 minutes every 30 minutes during daylight hours, and 5 minutes every 60 minutes during nighttime hours;
- Immediately begin to vacuum the paved yard three times a day, except during rain events or 2 hours following a rain event; and
- Keep daily records of these activities and submit these records monthly to the Department or EPC, or anytime upon request.

The contingency measures outlined above must be continued for a minimum of 90 days or until the Department has determined that they are no longer needed.

In the event that any three consecutive month period averages greater than  $0.15 \mu\text{g}/\text{m}^3$  at any monitor in the Area, EnviroFocus, once notified by the Department or EPC, must continue with the measures detailed in the O&M Plan listed above and:

- Immediately cease construction activities on site that disturb soil;
- Immediately restrict traffic within the facility area to only essential vehicles;
- The Department may require immediate restriction of the daily production of lead from the blast and reverb furnaces; and
- Keep daily records of these activities and submit these records monthly to the Department or EPC, or anytime upon request.

The contingency measures outlined above must be continued for a minimum of 90 days or until the Department has determined that they are no longer needed.

In the event that a fourth consecutive month is greater than  $0.15 \mu\text{g}/\text{m}^3$  at any monitor in the Area, EnviroFocus must continue with the measures listed above. The Department may then require additional production restrictions and/or contingency measures as it deems necessary to reduce ambient lead concentrations in the Area. The Department will transmit written descriptions of any such contingency measures by certified letter. These measures will be effective immediately upon receipt and will remain in effect until such time as the Department has determined that they are no longer needed. Applicable emissions abatement measures may be revisited each and every consecutive month during which a lead monitor in the Area averages above the NAAQS.

If a violation is recorded in any of the monitors in the Area, Florida will immediately begin a 30-day evaluation period to diagnose the cause of the violation. Following this

evaluation, a 90-day consultation period will begin between the State and EnviroFocus to determine the best course of action. If a permit modification is necessary, the State would issue a final permit in accordance to Sections 120 and 403 of the Florida Statutes. For additional details on the contingency plan, refer to section 5 of the maintenance plan.

EPA has preliminarily concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: the attainment emissions inventory; maintenance demonstration; monitoring; verification of continued attainment; and a contingency plan. Therefore, EPA proposes to determine that the maintenance plan for the Area meets the requirements of section 175A of the CAA and proposes to incorporate the maintenance plan into the Florida SIP.

## **VI. Proposed Actions**

EPA is proposing to take three separate but related actions regarding the redesignation request and associated SIP revision for the Hillsborough Area.

First, EPA is proposing to determine that the Area attained the 2008 lead NAAQS based on quality-assured, complete, and certified ambient monitoring data for the 2014-2016 period and that the Area continues to attain the standard based on quality-assured, complete, and certified ambient monitoring data for the 2014-2017 period.

Second, EPA is proposing to approve the maintenance plan for the Area and to incorporate it into the SIP. As described above, the maintenance plan demonstrates that the Area will continue to maintain the 2008 lead NAAQS through 2029.

Third, EPA is proposing to approve Florida's request for redesignation of the Area from nonattainment to attainment for the 2008 lead NAAQS. If finalized, approval of the

redesignation request for the Hillsborough Area would change the official designation of the portion of Hillsborough County, Florida, bounded by a 1.5 km radius centered at UTM coordinates 364104 meters East, 3093830 meters North, Zone 17, which surrounds EnviroFocus, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 lead NAAQS.

## **VII. Statutory and Executive Order Reviews**

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these proposed actions merely propose to approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these proposed actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because redesignations and SIP approvals are exempted under Executive Order 12866;



- Do not impose information collection burdens under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandates or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or

preempt tribal law.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference,  
Intergovernmental relations, Lead, Reporting and recordkeeping

**List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 8, 2018.

Onis “Trey” Glenn, III

Regional Administrator,

Region 4.

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